



9110-04-P

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 100**

**[Docket Number USCG-2018-0580]**

### **RIN 100-AA08**

### **Special Local Regulations; Annual Les Cheneaux Islands Antique Wooden Boat Show;**

**Hessel, MI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to add a special local regulation to increase safety in the navigable waters of Marquette Bay, Hessel, MI during the annual Les Cheneaux Islands Antique Wooden Boat Show. The proposal will add a no wake zone to be enforced in the area around the show from 7 a.m. to 7 p.m. on a date in mid-August. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before [INSERT DATE 20 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2018-0580 using the Federal eRulemaking Portal at <http://www.regulations.gov>. Type the docket number (USCG-2018-0580) in the “SEARCH” box and click "SEARCH." See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Chief Steven Durden, Waterways Management, Coast Guard Sector Sault Sainte Marie, U.S. Coast Guard; telephone 906-635-3222, email Steven.E.Durden@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

**II. Background, Purpose, and Legal Basis**

The Les Cheneaux Antique Wooden Boat Show was founded in 1978 and the event is held every year in mid-August. During this event, a variety of vessel traffic is attracted to the area in and surrounding the Hessel Marina. A commercial ferry vessel, jet skis, kayaks, paddle boards, sail and power vessels all use this this waterway to view the show and to transit the area. This mix of vessels in close proximity to each other warrants additional safety measures.

The legal basis for this proposed rulemaking is found at 33 U.S.C. 1233; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

**III. Discussion of Proposed Rule**

The Captain of the Port Sault Sainte Marie (COTP) has determined that adding the Annual Les Cheneaux Islands Antique Wooden Boat Show to the list of Special Local Regulations to establish a no wake zone in the navigable waters of Marquette Bay near Hessel, MI is the most practical way to ensure the safety of the boating public.

**V. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

#### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day for the no wake zone. Vessel traffic will be able to safely transit through the no wake zone which will impact a small designated area within the COTP zone for a short duration of time. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small

entities.

While some owners or operators of vessels intending to transit the no wake zone may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is

consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves creating a no wake zone for one day each year in a small area. Normally

such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

**List of Subjects in 33 CFR Part 100**

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.

2. Add §100.922 to read as follows.

§100.922— Special Local Regulations; Annual Les Cheneaux Islands Antique Wooden Boat Show; Hessel, MI

(a) *Regulated area.* These Special Local Regulations apply to all U.S. navigable waters of Marquette Bay, Hessel, MI, within an area bordered by a line from the crib piles charted in position 45° 59' 59"N, 084°25'10"W to Red Buoy "8" charted in position 45°59'46"N, 084°25'37"W to Red Buoy "6" charted in position 45°59'58"N, 084°25'53"W to Red Buoy "4" charted in position 45°59'57"N, 084°26'23"W to Green Buoy "5" charted in position 46°00'13"N, 084°26'10"W to land in position 46°00'18"N, 084°26'04"W.

(b) *Enforcement Period.* These special local regulations are effective for one day in mid-August. The Coast Guard will issue a notice of enforcement with the exact time and date this regulated area will be enforced.

(c) *Special Local Regulation.* While in the regulated area all vessels will operate at a no wake speed and follow the directions of the on-scene patrol commander.

Dated: June 12, 2018

M. R. Broz,  
Captain, U.S. Coast Guard  
Captain of the Port Sault Sainte Marie

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